IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/075,140 §
Filed: February 14, 2002 §
Inventor: §
Paul Durrant, et al. §
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Title: COMPUTER SYSTEM §
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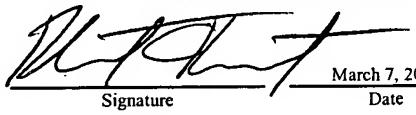
Examiner: Duncan, Marc M.
Group/Art Unit: 2113
Atty. Dkt. No: 5681-10800

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Robert C. Kowert
Name of Registered Representative



Signature

March 7, 2006
Date

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants request review of the rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reasons stated below.

Claims 18-24 and 32 are pending in the application. Reconsideration of the present case is earnestly requested in light of the following remarks. Please note that for brevity, only the primary arguments directed to the independent claims are presented, and that additional arguments, e.g., directed to the subject matter of the dependent claims, will be presented if and when the case proceeds to Appeal.

The Examiner rejects claims 18-24 and 32 as being anticipated by Canady et al. (U.S. Patent 6,385,665) (hereinafter "Canady"). Applicants respectfully traverse this rejections for at least the reasons below.

Regarding claim 18, Canady fails to disclose a computer system comprising a processor and a memory coupled to the processor, wherein the memory comprises program instructions configured to implement a plurality of device drivers, each operable to monitor an operation status of one of a plurality of devices, wherein to monitor the operational status the device driver is configured to generate environment data representative of at least one parameter value of at least one sensor associated with the device. Instead, Canady teaches a system that includes application card software residing on **separate application cards**. Canady's application card software along with unit controller software and system manager software performs the fault management functions of Canady's system (Canady, column 4, lines 23-32). Canady teaches software (20, 21, 22) executing on different hardware systems and devices, rather than teaching a plurality of devices drivers each operable to monitor an operational status of one of the plurality of devices, where the plurality of devices drivers are all implemented by program instructions from the same memory. Applicants' claim 18 recites a completely different system architecture from that of Canady. In Applicants' claim 18, the plurality of device drivers are implemented by program instructions on the same memory.

The Examiner contends that in Canady's system, the software on the system managers represents one plurality of devices drivers, while the software on the unit controllers and on the application cards represent two other pluralities of devices drivers and that each device driver is operable to monitor one of a plurality of devices. However, none of the software elements 20, 21 and 22 in Canady are described as a plurality of device drivers all implemented by program instructions on the same memory. Instead, the software components 20, 21 and 22 in Canady are very clearly distributed on separate devices. Moreover, Canady teaches that the various layers of his software work together to perform the fault detection and fault management in his system. For instance, Canady clearly states that the "fault management system and method of the present invention

occupies all architectural layers, and is primarily divided into two major building blocks, Fault Detection, and Fault Managing" (italics added, Canady, column 4, lines 50-53). Canady further teaches that software at all levels of his architecture take part in his fault management system (*see, e.g.*: Canady, column 4, lines 58-60; column 65-67; column 5, lines 11-20). Thus, Canady clearly does not teach a plurality of device drivers implemented by program instructions *from the same memory*, each operable to monitor an operational status of one of a plurality of devices.

Furthermore, by specifically teaching a distributed fault detection system that is implemented across different devices and different hardware architecture levels, **Canady teaches away** from a computer system including a processor and a memory, where the memory includes program instructions configured to implement a plurality of device drivers, each operable to monitor an operation status of on a plurality of devices. Canady requires one of software components 20, 21 and 22 running separately on each of the various cards and controllers of his system to perform the heartbeat test among the various cards and controllers (col. 4, line 56 – col. 5, line 10). Canady's teachings simply do not apply to a plurality of devices drivers all running from the same memory of a single computer system as recited in Applicants' claim 18.

Applicants note that anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. M.P.E.P 2131; *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Canady clearly cannot be said to disclose the identical invention as recited in Applicants' claim 18.

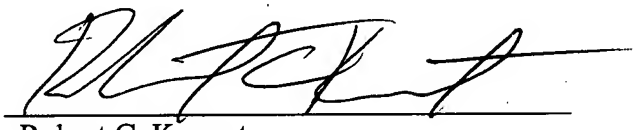
In the Advisory Action of March 2, 2006, the Examiner did not provide any substantive rebuttal whatsoever of the above arguments. For the above reasons, the rejection of claim 18 is clearly not supported by the cited art and removal thereof is respectfully requested. Similar remarks apply to claim 32 as well.

In light of the foregoing remarks, Applicant submits the application is in condition for allowance, and notice to that effect is respectfully requested. If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicants hereby petition for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 501505/5681-10800/RCK.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard
☒ Notice of Appeal

Respectfully submitted,



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Date: March 7, 2006